

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

JEREMY JOHNSON, et al.,

Defendants.

Case No. 2:10-cv-02203-MMD-GWF

ORDER

(Def.'s Motion to Remain in Home  
– dkt. no. 569;  
Vowell Entities' Motion for Leave  
– dkt. no. 626;  
Defs.' Motion to Join Request to Lift Stay  
– dkt. no. 633;  
Non-parties Motions to Intervene  
– dkt. no. 634, 663, and 706)

**I. SUMMARY**

Before the Court are the following ripe motions brought by various parties in this case:

1. Loyd Johnston's Motion to Remain in Home (dkt. no. 569)
2. The Vowell Entities' Motion for Leave to File in Excess of Page Limitations (dkt. no. 626)
3. The Fielding Defendants' Motion to Join Request to Lift Stay (dkt. no. 633)
4. Iprerogative, LLC and Rotortrends, LLC's Motion to Intervene (dkt. no. 634)
5. SLI, LLC and Trigger, LLC's Motion to Intervene (dkt. no. 663)
6. Cache Valley Bank's Motion to Intervene (dkt. no. 706)

The Court addresses each briefly below.

**II. BACKGROUND**

Plaintiff Federal Trade Commission ("the Commission") brought this suit on December 21, 2010, against Defendants Jeremy Johnson, Loyd Johnston, numerous

1 other individuals, and numerous entities, including I Works, Inc. and Elite Debit, Inc.,  
2 alleging that Defendants engaged in fraudulent business activities on the Internet that  
3 deceptively enrolled unwitting consumers into memberships for products or services,  
4 then charged their credit cards or debit funds without consumer authorization or  
5 knowledge. (See *dk.* no. 42.) The Commission alleges numerous violations of Section  
6 5(a) of the Federal Trade Commission Act (“the FTC Act”), 15 U.S.C. § 45(a) (prohibiting  
7 unfair or deceptive business activities) as well as violations of Section 907(a) of the  
8 Electronic Fund Transfer Act (“the EFTA”), 15 U.S.C. § 1693e(a), and its corollary  
9 Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b) (governing the rights and  
10 liabilities of consumers engaged in electronic funds transfer activities). (See *id.* at 73-  
11 80.)

12 Finding that the Commission established a likelihood of success on the merits, the  
13 Court entered a preliminary injunction against Defendants and appointed a receiver (“the  
14 Receiver”) to manage the approximately \$300 million of disputed funds the Commission  
15 alleges belongs to consumers defrauded by Defendants. (See *dk.* no. 130.) Since the  
16 injunction was issued on February 10, 2011, the Receiver has endeavored to preserve  
17 the receivership estate while the parties engage in discovery on the merits of the claims  
18 brought by the Commission.

### 19 **III. DISCUSSION**

#### 20 **A. Loyd Johnston’s Motion to Remain in Home (*dk.* no. 569)**

21 Defendant Loyd Johnston filed this Motion on May 17, 2012, seeking a court  
22 order allowing him to remain in his home, a property that is part of the Receivership  
23 estate. (See *dk.* no. 569.) Johnston’s home was financed by Defendant Elite Debit, Inc.  
24 The Receiver initiated foreclosure proceedings in February 2012 due to Johnston’s  
25 failure to remit payments on the home loan issued by Elite Debit. In his Response, the  
26 Receiver suggests allowing Johnston to reside in his home through December 4, 2012,  
27 with only the obligation to maintain insurance and pay property taxes. If he is unable to

28 ///

1 cure the default on the property by that point, the Receiver would complete the  
2 foreclosure sale of the Property.

3 Johnston in his Reply represents to the Court that Elite Debit, through its owner  
4 Jeremy Johnson, waived his right to mortgage payments from Johnston. Since the Court  
5 has denied Elite Debit's Motion for Summary Judgment (see dkt. no. 852), Johnston's  
6 home remains a Receivership asset. In light of the Receiver's offer to allow Johnston to  
7 remain in the home through December 4, 2012, and the passage of time since  
8 Johnston's filing of this Motion, the Court denies Johnston's Motion as moot. Johnston  
9 and the Receiver are ordered to confer about this matter and file a joint statement to the  
10 Court within fourteen (14) days from the date of this Order detailing their positions on  
11 how to proceed.

12 **B. Todd Vowell's Motion for Leave to File in Excess of Page Limitations**  
13 **(dkt. no. 626)**

14 Various entities known as the "Vowell Entities" seek Court leave to file their  
15 Response to the Receiver's Motion for Order Clarifying Preliminary Injunction Order.  
16 (See dkt. no. 626.) Good cause appearing, their Motion is granted.

17 **C. Duane Fielding's Motion to Join Request to Lift Stay (dkt. no. 633)**

18 Defendants Duane Fielding, Network Agenda, LLC, and Anthon Holdings Corp.  
19 (hereinafter known as the "Fielding Defendants") filed this Motion seeking to join Jeremy  
20 Johnson's Opposition to Extending the Limited Stay. (See dkt. no. 633.) As the Court  
21 lifted the stay on discovery in its July 24, 2012, Order, the Fielding Defendants' Motion is  
22 denied as moot. (See dkt. no. 671.)

23 **D. Motions to Intervene (dkt. nos. 634 and 663)**

24 Non-parties Iprerogative, LLC and Rotortrends, LLC filed this Motion to Intervene  
25 (dkt. no. 634), as did SLI, LLC and Trigger, LLC (dkt. no. 663). Good cause appearing,  
26 the Court grants both Motions, and allows the respective entities to intervene for the  
27 limited purpose of contesting the Receiver's Motion for Order Clarifying Preliminary  
28 Injunction.

**E. Cache Valley Bank's Motion to Intervene (dkt. no. 706)**

Intervener Cache Valley Bank filed this Motion to Intervene seeking to defend its rights in property collateralized in obligations between SunFirst Bank and I Works, Inc. (See dkt. no. 706.) The Receiver and Cache Valley Bank entered into a settlement agreement on November 29, 2012 (see dkt. no. 767), which was subsequently signed by the Court on February 14, 2012 (see dkt. no. 815). The agreement resolved any issues concerning the liens that secured loans to I Works, Inc. made by SunFirst Bank. As no outstanding issues remain that require Cache Valley Bank's involvement in this litigation, Cache Valley's Motion to Intervene is denied as moot.

**IV. CONCLUSION**

Accordingly, IT IS HEREBY ORDERED that Defendant Loyd Johnston's Motion to Remain in Home (dkt. no. 569) is DENIED. The parties are ordered to confer and file a joint statement within fourteen (14) days of the date of this Order detailing their positions on this matter.

IT IS FURTHER ORDERED that the Vowell Entities' Motion for Leave to File in Excess of Page Limitations (dkt. no. 626) is GRANTED.

IT IS FURTHER ORDERED that the Fielding Defendants' Motion to Join Request to Lift Stay (dkt. no. 633) is DENIED as moot.

IT IS FURTHER ORDERED that Iprerogative, LLC and Rotortrends, LLC's Motion to Intervene (dkt. no. 634) is GRANTED for the limited purpose of contesting the Receiver's Motion for Order Clarifying Preliminary Injunction.

IT IS FURTHER ORDERED that SLI, LLC and Trigger, LLC's Motion to Intervene (dkt. no. 663) is GRANTED for the limited purpose of contesting the Receiver's Motion for Order Clarifying Preliminary Injunction.

///

///


///

///

1 IT IS FURTHER ORDERED that Cache Valley Bank's Motion to Intervene (dkt.  
2 no. 706) is DENIED as moot.

3 IT IS SO ORDERED.

4 DATED THIS 14<sup>th</sup> day of March 2013.

5  
6   
7 \_\_\_\_\_  
8 MIRANDA M. DU  
9 UNITED STATES DISTRICT JUDGE  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28